

Introduced by Senator Wolk

February 24, 2012

An act to amend Section 23778 of, and to repeal and add Section 23703 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1341, as introduced, Wolk. Corporation Tax Law: charitable corporations: exemptions: revocation.

Existing law provides that no exemption shall be allowed for a charitable corporation that fails to file required registration or periodic reports with the Attorney General. Existing law provides that after the Attorney General has notified the Franchise Tax Board in writing that a charitable corporation has failed to file required registration or periodic reports, the exemption will be disallowed and may only be reinstated when the registration or periodic reports are filed. Existing law further provides that a charitable corporation whose exemption is disallowed must pay the minimum tax, as provided, for any year or years its exemption was disallowed.

This bill would require the Franchise Tax Board to mail a notice to a charitable corporation that has not filed its required registration or periodic reports with the Attorney General, stating the intent of the Franchise Tax Board to revoke the exemption unless the charitable corporation files all past due and currently due documents, as provided, within a specified applicable period. This bill would remove the requirement that a charitable corporation whose exemption is disallowed must pay the minimum tax for any year or years its exemption was disallowed. This bill would allow a charitable corporation whose exemption has been revoked to reestablish its exemption by filing and paying specified applications, fees, returns, statements, and payments.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23703 of the Revenue and Taxation Code
2 is repealed.
3 ~~23703. (a) No exemption shall be allowed under this article~~
4 ~~to any charitable corporation as defined in Sections 12582.1 and~~
5 ~~12583 of the Government Code for any year or years for which it~~
6 ~~fails to file with the Attorney General, on or before the due date,~~
7 ~~any registration or periodic report required by Article 7~~
8 ~~(commencing with Section 12580) of Chapter 6, Part 2, Division~~
9 ~~3, Title 2, of the Government Code.~~
10 ~~(b) The exemption shall be disallowed under this section only~~
11 ~~after the Attorney General has notified the Franchise Tax Board~~
12 ~~in writing that a charitable corporation subject to the provisions~~
13 ~~of subdivision (a) has failed to file any such registration or periodic~~
14 ~~report on or before the due date thereof.~~
15 ~~(c) If an exemption is disallowed under this section, such~~
16 ~~exemption may be reinstated when the registration or periodic~~
17 ~~reports are filed; however, any such charitable corporation shall~~
18 ~~pay the minimum tax provided for by Section 23153 for any year~~
19 ~~or years for which its exemption was disallowed under this section.~~
20 ~~(d) No exemption shall be disallowed under this section for~~
21 ~~taxable years commencing before January 1, 1962.~~
22 ~~(e) The Franchise Tax Board may make any regulations which~~
23 ~~it deems necessary to effectuate the purposes of this section.~~
24 SEC. 2. Section 23703 is added to the Revenue and Taxation
25 Code, to read:
26 23703. (a) For purposes of this section, “charitable
27 corporation” means a corporation defined in Section 12582.1 of
28 the Government Code that is required to comply with the filing
29 requirements set forth in Article 7 (commencing with Section
30 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the
31 Government Code.
32 (b) (1) The exemption granted to a charitable corporation under
33 the provisions of Article 1 (commencing with Section 23701) shall
34 be revoked by the Franchise Tax Board in accordance with this
35 section if the charitable corporation fails to file with the Attorney

1 General any registration or periodic report required by Article 7
2 (commencing with Section 12580) of Chapter 6 of Part 2 of
3 Division 3 of Title 2 of the Government Code.

4 (2) A revocation shall occur under this section only after the
5 Attorney General has first notified the Franchise Tax Board in
6 writing that a charitable corporation has failed to file any
7 registration or periodic report on or before the due date thereof,
8 and the Franchise Tax Board has mailed a notice to the charitable
9 corporation stating that the Franchise Tax Board intends to revoke
10 the exemption if the charitable corporation does not file with the
11 Attorney General all past due and currently due documents required
12 by Article 7 (commencing with Section 12580) of Chapter 6 of
13 Part 2 of Division 3 of Title 2 of the Government Code.

14 (3) After receipt of all required documents from a charitable
15 corporation, the Attorney General shall provide prompt notification
16 to the Franchise Tax Board and the charitable corporation that the
17 charitable corporation has filed all past due and currently due
18 documents required by Article 7 (commencing with Section 12580)
19 of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government
20 Code.

21 (c) (1) If the Franchise Tax Board does not obtain notification
22 from the Attorney General pursuant to paragraph (3) of subdivision
23 (b) that the charitable corporation has complied with the filing
24 requirements described in subdivision (b) by the last day of the
25 applicable period, the Franchise Tax Board shall revoke the
26 exemption granted to the charitable corporation pursuant to Section
27 23777 on the first day after the applicable period.

28 (2) For purposes of this subdivision, the applicable period
29 means:

30 (A) For notifications of noncompliance from the Attorney
31 General that are received by the Franchise Tax Board before the
32 effective date of the act adding this section, the applicable period
33 shall be 120 days after the effective date of the act adding this
34 section.

35 (B) For notifications of noncompliance from the Attorney
36 General that are received by the Franchise Tax Board on or after
37 the effective date of the act adding this section, the applicable
38 period shall be 120 days after the Franchise Tax Board mails
39 notification of the intent to revoke the exemption granted to the
40 charitable corporation.

(d) For a charitable corporation whose exemption has been revoked pursuant to Section 23703, as amended by Section 94 of Chapter 862 of the Statutes of 2000, prior to the effective date of the act adding this section, the Franchise Tax Board may reestablish that charitable corporation's exempt status under Section 23778, after receipt of notification from the Attorney General pursuant to paragraph (3) of subdivision (b) that the filing requirements set forth in Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code have been fulfilled.

(e) This section shall apply with respect to notifications of noncompliance received from the Attorney General before, on, or after the effective date of the act adding this section.

SEC. 3. Section 23778 of the Revenue and Taxation Code is amended to read:

23778. An organization whose exemption was revoked under Section 23703 or 23777 may be reestablished as an exempt organization upon:

(a) The filing or payment of *both of the following*:

(1) A new application for exemption and payment of the filing fee required under Section 23701;

(2) Any returns, statements, or payment of any amounts due under this part or Part 10.2 (commencing with Section 18401) which were not previously submitted or paid and which resulted in the revocation.

(b) When revocation occurred under subdivision (c) of Section 23777, satisfactory proof that—*all of the following have occurred*:

(1) The organization has corrected its nonexempt activities;~~and~~.

(2) That it will operate in an exempt manner in the future;~~and~~.

(3) The payment of any tax for periods the organization was not qualified for exemption.

SEC. 4. The Legislature finds and declares that the abatement for charitable corporations of the minimum franchise tax, and related penalties and interest, by this act with respect to previous taxable years serves a public purpose of encouraging charitable corporations to come into compliance with filing requirements of a charitable corporation so that all Californians can continue to support and donate to much needed nonprofit organizations.

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